

Chapter DOC 314

MENTAL HEALTH TREATMENT FOR INMATES

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Note: Chapter DOC 314 as it existed on November 30, 2000 was repealed and a new chapter DOC 314 was created effective December 1, 2000.

DOC 314.01 Authority, applicability and purpose.

(1) This chapter is promulgated pursuant to the authority vested in the department by ss. 301.02, 301.03 (2), 301.03 (6) and 227.11 (2), Stats., and applies to the department and to all adult inmates in its legal custody in correctional institutions. This chapter interprets s. 51.20, Stats.

(2) The department has authority to provide specialized treatment for inmates and shall assess and direct inmates into treatment programs.

(3) The department may consider involuntary mental health treatment when the inmate otherwise cannot be treated adequately and when ordered by a court. Whenever feasible and appropriate, the department intends to use other forms of treatment for mental illness, including voluntary treatment in the correctional institution or state treatment facility or transfer to another more appropriate correctional institution. This chapter provides guidance to correctional institution staff concerning the times when it will become necessary to provide an inmate involuntary treatment.

History: Cr. Register, November, 2000, No. 539, eff. 12–1–00.

DOC 314.02 Definitions. In this chapter:

(1) “Correctional institution” means a facility named in s. 302.01, Stats.

(2) “Department” means the department of corrections.

(3) “Nurse practitioner” means a person who meets the qualifications under s. 411.16, Stats.

Note: There is no s. 411.16, Stats.

(4) “Outpatient” means an inmate receiving treatment for a mental disorder in a correctional institution.

(5) “Physician” means a person licensed to practice medicine in Wisconsin under ch. 448, Stats.

(6) “Physician assistant” means a person licensed to practice as a physician assistant in Wisconsin under ch. 448, Stats.

(7) “Psychiatrist” means a person licensed to practice medicine in Wisconsin under ch. 448, Stats. and who is board certified to practice as a psychiatrist.

(8) “Psychologist” means a person licensed to practice psychology in Wisconsin under ch. 455, Stats.

(9) “Psychotropic medication” means controlled medication that is used to influence psychological functioning, behavior or experience.

(10) “Registered nurse” means a person licensed to practice as a registered nurse in Wisconsin under ch. 441, Stats.

(11) “State treatment facility” has the meaning given in s. 51.01 (15), Stats.

History: Cr. Register, November, 2000, No. 539, eff. 12–1–00.

DOC 314.03 Involuntary commitment. The department may file a petition for an inmate’s involuntary commitment to a state treatment facility under s. 51.20, Stats., following consideration of voluntary treatment.

History: Cr. Register, November, 2000, No. 539, eff. 12–1–00.

DOC 314.04 Informing the inmate. (1) Before filing a commitment petition under s. DOC 314.03 for an inmate’s involuntary commitment for mental health care, a physician or psychologist shall inform the inmate about all of the following:

(a) The inmate’s treatment needs.

(b) The mental health services that are appropriate and available to the inmate, including a description of the appropriate voluntary treatment available in either a correctional institution or state treatment facility.

(c) The inmate’s rights under s. 51.61, Stats. Inpatients have all rights specified in s. 51.61, Stats.

(d) Outpatients have only the rights under s. 51.61, Stats., that are specified in s. 51.61 (1) (a), (d), (h), and (k), Stats.

(2) The correctional institution shall give the inmate an opportunity to consent to voluntary treatment, including voluntary placement in a state treatment facility or voluntary treatment with psychotropic medication.

(3) Correctional institution staff shall tell the inmate that the inmate retains the status as an inmate upon commitment under s. 51.20, Stats., and that the inmate is subject to the same rules as other inmates of the department, which include for outpatients the grievance procedure under ch. DOC 310 and for inpatients the grievance procedure required under s. 51.61 (5), Stats.

(4) Any information conveyed under subs. (1) to (3) shall be in a manner that is reasonably calculated to best enable the inmate to understand the information.

History: Cr. Register, November, 2000, No. 539, eff. 12–1–00.

DOC 314.05 Involuntary treatment. An inmate may be treated involuntarily with psychotropic medications only under the following circumstances:

(1) While the inmate is in a state treatment facility under an involuntary commitment under ch. 51, Stats., for the treatment of mental illness and the court has found the inmate not competent to refuse psychotropic medication under s. 51.61, Stats.

(2) If the inmate is committed under s. 51.20, Stats., as an outpatient in a correctional institution, the court has found the inmate not competent to refuse psychotropic medication, and the inmate refuses to take the medication voluntarily. All of the following steps shall be followed:

(a) Psychotropic medication shall be administered by a registered nurse, nurse practitioner, physician assistant, physician, or a designee.

(b) The registered nurse, nurse practitioner, physician assistant or physician shall give the inmate an opportunity to take the medication voluntarily.

(c) When an inmate has been adjudicated under ch. 54, Stats., to be incompetent to consent to treatment, the department of corrections shall obtain consent to voluntary treatment from the inmate’s guardian.

(d) When the inmate refuses, the registered nurse, nurse practitioner, physician assistant or physician shall counsel the inmate and attempt to persuade the inmate to take the medication.

(e) If the inmate continues to refuse and there is a current physician order to involuntarily administer the psychotropic medication, the registered nurse, nurse practitioner, or physician assistant

shall contact the physician who wrote the order to assess the situation. The physician shall decide the course of action to be taken. Possible actions may include all of the following:

1. Take no action for a period of time.
2. Transfer the inmate to a special unit within the correctional institution for treatment of mental illness.
3. Place the inmate in observation status pursuant to ch. DOC 311.
4. Recommend transfer of the inmate to an alternate correctional institution pursuant to ch. DOC 302.
5. Recommend transfer of the inmate to a state treatment facility, pursuant s. 51.20, Stats.
6. Direct that the medications be administered.

(f) If directed by the attending physician, the registered nurse, nurse practitioner, or physician assistant shall instruct the inmate to take the medication. If the inmate persists in refusing to take the medication, security staff will restrain the inmate while the registered nurse, nurse practitioner, physician assistant, or physician administers the psychotropic medication involuntarily.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00; **correction in (2) (c) made under s. 13.93 (2m) (b) 7., Stats., Register December 2006 No. 612.**

DOC 314.06 Review of an inmate on psychotropic medication. The department of corrections staff psychiatrist or psychologist shall review the need to request an extension of the court order 60 days prior to the end of the court order.

History: Cr. Register, November, 2000, No. 539, eff. 12-1-00.